IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.11401 of 1998

Between:
K. Narasaiah s/o. Somaiah
R/o H.No. 16-11-212, Chintal, Warangal-506 001

..... PETITIONER

AND

1 The Industrial Tribunal-cum-Labour Court, Warangal.
2 The Depot Manager, A.P.S.R.T.C., Narsampet Depot, Narsampet, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of Writ of Certiorari after calling for the records from the Labour Court in I.D.No. 97/92 dated 11.7.1994 in confirming the orders of removal passed by the respondent as illegal and arbitrary; and consequently direct the respondent to reinstate the petitioner into service with continuity of service, back wages and all other attendant benefits,

Counsel for the Petitioner: Smt. G. VIDYASAGAR
Counsel for the Respondent No.1: None appeared
Counsel for the Respondent No.2: Smt. A.VYJAYANTHI, Standing Counsel for ASPRTC

The Court made the following :

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ORAL ORDER:

This writ petition is filed challenging the Award dated 11-7-1994 in I.D.No.97 of 1992 on the file of the Industrial Tribunal-cum-Labour Court, Warangal, wherein the order of removal passed by the respondent-management against the writ petitioner was confirmed.

While the petitioner was conducting the bus of the respondent-Corporation bearing registration No.2017 on 19-2-1991, a check was exercised at stage No.7 by the checking officials of the Corporation and found certain cash and ticket irregularities. Petitioner submitted his spot explanation. But, the authorities had not accepted the same and a charge sheet dated 2-3-1991 was issued. Thereafter, domestic enquiry was conducted after giving reasonable opportunity to the petitioner and he was removed from service of the Corporation by an Order dated 2-12-1991 of the 2nd respondent. Aggrieved by the same, the petitioner filed an appeal, which was rejected by the Divisional Manager on 30-3-1992. Thereafter, the petitioner invoked the remedy under Section 2-A(2) of the Industrial Disputes Act,1947 before the Industrial Tribunal-cum-Labour Court, Warangal and filed a claim petition. Respondent-Management filed a counter affidavit denying the allegations made by the petitioner. It was asserted that the past conduct of the petitioner was not good. His increments were postponed seven times, censured four times and suspended twice. In fact, he was removed from service once earlier and was reinstated by the appellate authority by taking a lenient view of the matter. In spite of that, he has not mend his ways and involved in the present misconduct and he does not deserve any

sympathy. The order of removal passed by the 2nd respondent is just and proper. The petitioner defrauded the revenue of the Corporation and he committed a grave misconduct. On consideration of the pleadings of both parties and evidence adduced by them, the Labour Court found that the management has established all the charges against the petitioner beyond doubt and non-issue of tickets after collecting requisite fares clearly shows the bad motive of the petitioner to grab the money of the Corporation illegally. The Labour Court also found that it is not a fit case to invoke Section 11-A of the Act. Aggrieved by the same, the present writ petition is filed.

I have heard both sides and gone through the Award passed by the Labour Court.

The Labour Court noticed that though the petitioner stated that the checking officials obtained statements of the passengers and also the spot explanation from him by coercion and threat, he could not place any evidence to prove his contention. Though there was elaborate cross-examination of the checking officials in the enquiry, petitioner could not elicit anything in his favour. Further, the Labour Court noticed with regard to charge No.2 that in the spot statements, the passengers stated that they had boarded the bus at Kothagudem and out of three, two passengers were travelling upto Sadireddipally and the other passenger was traveling upto Konapuram and by the time of check at stage No.6, they had not obtained tickets and did not pay any fare to the Conductor. With regard to charges 3 and 4, the passengers had categorically stated that they paid the requisite fare at their boarding point itself and even then the petitioner did not give them tickets and they were not in possession of the tickets at the time of check.

Sri G.Vidyasagar, learned counsel appearing for the petitioner, submits that at the time of check, as many as 89 passengers were

travelling in the bus and the misconduct alleged against the petitioner occurred in the normal course of duties attended to by the petitioner and the authorities should have taken a lenient view, instead of imposing the harshest punishment of removal from service.

May be, there are number of passengers in the bus, but that itself will not absolve the petitioner, since, according to the statements of the passengers, the petitioner had collected the fares at the time of boarding the bus itself and did not issue tickets to them, though the bus moved for more than three stages. Therefore, the Labour Court found that the petitioner having collected the fare, willfully avoided to issue tickets to some of the passengers, apart from failing to issue luggage tickets etc. The Labour Court further proceeded to hold that if the conductors of this type are allowed to continue in service, there would be huge loss to the revenue of the Corporation. Hence, it is not a fit case to invoke the provision of Section 11-A of the Act.

From the above, it is clear that the Labour Court while exercising its powers under Section 11-A of the Act also found that it is not a fit case to give any relief to the petitioner. Apart from that, as noted above, the past conduct of the petitioner is also not good. Therefore, the Labour Court rightly found that the petitioner is not entitled for any relief. I am of the considered opinion that no interference can be made with the impugned Award, in exercise of the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

17-9-2004

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Industrial Tribunal-cum-Labour Court, Warangal.

2 The Depot Manager, A.P.S.R.T.C., Narsampet Depot, Narsampet, Warangal District.

3. 2CD copies.

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